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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA

10 UNITED STATES OF AMERICA,)	No. CR 05-00579-CW
)	
11 Plaintiff,)	STIPULATION AND ORDER TO
)	MODIFY BRIEFING SCHEDULE
12 v.)	
)	Date: March 27, 2006
13 MICHAEL EUGENE MAYO,)	Time: 2:30 p.m.
)	Court: Hon. Claudia Wilken
14 Defendant.)	U. S. District Court
15 _____)	

16 This matter is currently on calendar for motions hearing on Monday, March 27, 2006 at 2:30
17 p.m. The parties are considering a negotiated disposition and defendant has therefore not filed
18 motions at this time. The parties desire a brief additional window to determine whether this case
19 may be resolved, particularly in light of the Ninth Circuit's recent decision in *United States v.*
20 *Rodrigo Alejandro Morales-Perez*, No. 05-10115 (filed Feb. 22, 2006), that could affect the
21 applicability of the career offender penalty and thus significantly affect Mr. Mayo's exposure in
22 this case. Because government counsel has been in trial since March 20th and will remain in trial
23 through part or all of next week, the parties jointly request that the briefing schedule be modified
24 to afford an opportunity for defendant to complete necessary investigation and preparation and for
25 the parties to confer regarding settlement. Taking into account the court's availability, government
26 counsel's trial schedule, and defense counsel's unavailability from April 1st until April 5, the

1 parties propose the following schedule:

2 Defendant's motions to be filed by: April 10, 2006

3 Government's opposition to be filed by: April 17, 2006

4 Any reply to be filed by: April 20, 2006

5 Motions hearing set for: April 24, 2006 at 2:30 p.m.

6 The parties further request that the time between today's date and the next hearing date of April
7 24, 2006, be excluded from calculations under the Speedy Trial Act, 18 U.S.C. §3161(h)(1)(F),
8 §3161(h)(8)(A), and §3161(B)(iv) to afford defendant adequate time for effective preparation.

9 For these reasons, the parties request that the Court find that the time between today's date
10 and April 24, 2006, should be excluded under the Speedy Trial Act, 18 U.S.C. §3161 (h)(8)(A)
11 and (B)(iv), because this delay is necessary to provide counsel for defendant with the reasonable
12 time necessary for effective preparation, taking into account the exercise of due diligence. The
13 time between the filing of defendant's motion and the hearing on that motion on April 24, 2006, is
14 also excludable pursuant to §3161(h)(1)(F) of the Speedy Trial Act, which provides for exclusion
15 for any period of delay resulting from any pretrial motion, from the filing of the motion through
16 the conclusion of the hearing.

17 SO STIPULATED.

18 Dated: March 24, 2006 /S/

19 _____
HILARY A. FOX
Attorney for Defendant MAYO

20 SO STIPULATED.

21 Dated: March 27, 2006 /S/

22 _____
KIRSTIN AULT
Assistant United States Attorney

23
24 SIGNATURE ATTESTATION

25 I hereby attest that I have on file all holograph signatures indicated by a "conformed"
26 signature ("/S/") within this efiled document.

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Based on these findings, IT IS HEREBY ORDERED THAT the motions hearing scheduled for March 27, 2006 shall be continued to April 24, 2006, at 2:30 p.m. The Court finds that the time from today's date through April 24, 2006, shall be excluded for purposes of the Speedy Trial Act, 18 U.S.C. §3161(h)(8)(A) and (B)(iv). In addition, upon the filing of defendant's motion, time shall be excluded pursuant to §3161(h)(1)(F), which provides for exclusion for any period of delay resulting from any pretrial motion, from the filing of the motion through the conclusion of the hearing.

Dated: March 27, 2006

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